IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7080 OF 2005

Ramkishan G. Pawar .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.P.V.Vare for applicant

Mrs.S.D.Shinde, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17th November 2005.

P.C.

. Applicant in this case is arrested on 16th June 2005 for offences punishable under section 452, 143, 149, 302 and 34 I.P.C.

Presently, he is in judicial custody. Investigations are complete and the police have filed charge sheet. Case of the prosecution is that on 16th June 2005 i.e. at about 10 a.m. at the residence of complainant Parubai when she and her husband were sleeping, the applicant along with other accused entered their hut. Applicant was accompanied by one Mahadu who was carrying on a wooden stick. It is alleged that the accused caught hold of Parubai and as far as the present applicant is concerned he caught hold of her husband. Mahadu administered blow of wooden stick on the head of deceased and thereafter all of them ran away. F.I.R. was lodged at Mahim police station. Applicant along with other accused are charged with the aforesaid offences.

2. Case of applicant is that apart from the fact that he has no criminal antecedents, he is a farmer and only earning member of the family. He is having two young children. He is not

permanent resident of Mumbai. He comes to Mumbai during off seasons and does stray labour jobs to earn his living. Learned Counsel submits that the only role allegedly attributable to the applicant in the entire prosecution story is that he caught hold of deceased along with others. So called fatal blow was administered by not the applicant but one Mahadu. Apart from accompanying other accused, including Mahadu to the hut of deceased, there is no other allegation.

3. With the assistance of the learned Counsel appearing in support of his application and Mrs.Shinde, A.P.P. I have perused statement of Parubai as also statement of Police Constable Bharat Kendre. I have also perused the order of sessions court.

4. It is disputed that the only role played by the applicant is catching hold of the

deceased. No other act is attributed to him. He was not carrying any weapon and the wooden stick blow is attributed to other accused, Mahadu. Considering this fact and further that the applicant is detained since 16th June 2005 as well as the investigations being complete, this is a fit case where applicant accused deserves to be enlarged on bail.

5. At this stage, Mrs.Shinde, A.P.P. states that concerned police station is Mahim police station, Mumbai. The matter would be committed to sessions Court, Mumbai. Permanent residence of applicant is as mentioned in the cause title i.e. Gangakhed Taluka. On his own showing he comes to Mumbai for stray jobs and has no permanent place in Mumbai. He allegedly resides in a slum. Learned Advocate for applicant states that considering his financial position it is necessary that the applicant be set at liberty so that he earns his livelihood

and he is willing to abide by such conditions as are imposed including reporting at Mahim police station. Accordingly, following order:-

i) The applicant is released on bail in connection with C.R.No.161 of 2005 registered with Mahim Police Station subject to furnishing a personal bond of Rs.5000/-.

ii) Applicant shall attend Mahim Police Station twice a week on every Monday and Thursday between 4.00 p.m. and 6.00 p.m.

iii) The applicant shall not directly or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application disposed of in above terms.

vii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)